Ilmmouth Banner.

WM. J. BURNS, Editor & Proprietor.

PLYMOUTH, IND.

Thursday Morning, Nov. 15, 1855.

tion, must be handed in by Tuesday preceding the day of publication.

Knowing the anxiety of our readers to learn the fate of the Indiana Liquor Law, we lay everything else aside to make room

The "Marhall County Democrat" will make its first appearance to-day.

POPULATION OF THE TERRITORIES .-Judging from the late returns, the Philadelphia North American estimates the population of Minnesota at 55,000; New

Mexico. 82, 374: Oregon by the Philadelphia Territories.—

State by starving the people constituting it to death; and such legislation would hardly comport, we think, with a constitution established to promote the welfare and prosperity of the people.

We assume it as established to promote the welfare and prosperity of the people.

We assume it as established, then, that the liquor act in question is absolutely prohibite and the principle of an act to annihilate the governments must of necessity be protective of constitutional checks and guards.

Should we find however, in the course of this investigation that the course of this investigation that the course of the people constitution is absolutely prohibited to promote the welfare and prosperity of the people. Mexico, 82, 374; Oregon, between 60papers set down the population of that sale out of this State is not prohibited, but it has completed, shows the population to be but permits them to be scattered amongst our neigh-4,564.

-The Borsen Zeitung, of Berlin, re-asserts that the Russian government is endeavoring to affect a sale to the United bargain be brought to a satisfactory conclusion, various indulgences are to be extended to the commerce of the United States on the part of Russia.

The Washington correspondent of the will probably, it is said, open the ball on economy, note to p. 134.

Habeas Corpus before Judge Perkins of the Supreme Court.

HERMAN vs. THE STATE.

violated the liquor act of 1855. He obtained a writ

sented to us. We had hoped that these applications some shape or other, in one or more of our sister vulged them, and libels against the best of the product of his land,' says Polit. the Supreme Court had decided upon the validity of point passed under judicial consideration.

that we should say'a word by way of fairly setting rights.

The first section enacts "that no person shall

Other sections permit the manufacture of whisky, missioners; supplied with funds from the county treasury; paid a compensation for their services by the county; sell at prices fixed for them, and make the profits and losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the business for the public of the United States cannot act upon such the legislature cannot declare the losses of the losses of the United States cannot act upon such the legislature cannot declare the losses are not recommendately the legislature cannot take away by distance or not. the profits and losses of the business for the public treasury and not for themselves. We say they are furnished with public funds. They are so in all cases; for when they, in the first instance, invest their own, it is by way of loan to the county at a fixed county with interest, and the amount is refunded by the county with interest. These selling agents, then, are, and for convenience, may be denominated government agents; for it is all one in principle whether the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with may pass laws depriving them of vested the government creates and furnishes them with maximage and order it discontinued; nor can it declare the path from my house to my barn nor any obstruction I may place in it a nuisance, and order it discontinued; nor can it declare my store room and stock of goods a nuisance, prohibit my selling them, and in their sleeping and waking. And if the people are subject to be controlled by the legis-laws of the people are subject to be continued; or clare the path from my house to my barn nor any obstruction I may place in it a nuisance, and order it discontinued; nor can it declare my store room and stock of goods a nuisance, prohibit my selling them, and in their sleeping and waking. And if the people are subject to be controlled by the legis-laws of the prohibit my selling them, and order it dis the government creates and furnishes them with funds through the medium of the counties, or appropriate them directly by statue and supplies them propriate them directly by statue and supplies them with funds from the State Treasury. To express, with funds from the State Treasury. To express, and the like; Salterlee v. Mathewthen, the substance of the main provisions of the

ky, beer, ale or porter, unless the sale be to an agent of the government or by such agent for medicine &c.

That no person in this State shall drink any cannot deprive the citizen of the right of be found, to have the forfeiture and abate
a law regulating the diet of the people, a law regulating the diet of the people and the law regulation the legislature from passing the diet of the people and the law regulation the legislature from passing the diet of the people and the law regulation the legislature from passing the diet of the people and the law regulation t i stance except as a medicine,

ale, porter, and beer for use as a beverage; or, at all except for the government, to be sold by it for medicine, &c.; and it prohibits absolutely the use of those Mead, 4 Blackf 309. articles by the people as a beverage.

To the exception as to the admission of foreign

The question now presents itself,

iquors under the constitution and laws of the United States, will not be noticed, for the reason that bited, and not in accordance with the spirit and legislation is valid. The Constitution of of his peers, and the provision of the gen- the people. It all resolves itself into them, and will not till the Bible is dis- trade with China at the canon's mouth be Advertisements to insure inser- policy of the State statute. and which foreign liq- the United States may not, but that of the eral law of the land, and not by the tyran- this, as in the case of printing, worship- carded and an overwhelming change in correct, that in this day of Christian civ.

to be a part of the object and policy of the State liquor law, in order to supply the people with liquor as a beverage, renders the law doubly objectionation. This doctrine has been asserted as a beverage of the object and policy of the State nent judges, may principles of natural justice, independent of all constitutional retire of Blackwell on Tax Titles.

In the object and policy of the State nent judges, may principles of natural justice, independent of all constitutional retire of Blackwell on Tax Titles.

In the object and policy of the State nent judges, may principles of natural justice, independent of all constitutional retire of Blackwell on Tax Titles. straint. This doctrine has been asserted ble, for, while, according to such a view, the law designs to permit the use of liquors as a beverage, it here. In Andrews v. Russell, 7 Blackf, for the opinion of the Supreme Court, on the subject.

signs to permit the use of inquors as a beverage, it prohibits the people from manufacturing for their own use. It is as if the law were that the people might eat bread but should not raise the grain and grind it in flour wherewith to make it. It would be an act to prohibit the people from themselves pro-ducing; and to compel them to purchase from abroad certain absolute rights, and the right of what they might need to eat and drink. It would property is among them, which in all free involve the principle of an act to annihilate the

act in question is absolutely prohibitory of the manufecture, sale and use as a beverages by the people free State does, in fact, sufficiently protect 000 and 70,000. Some of the Kansas of this State, of whiskey, ale, porter and beer. The papers set down the population of that Territory at 25.000, but this is probably not the substance of a shadow; and the morality of ive, it will not become necessary for us to that law which prohibits the distribution of pauper- enquire whether in any event, it might be too high. The census of Nebraska, just ism and crime, disease and death, at home, at home proper to fall back upon the doctrine above

so unhesitatingly asserted. ors, is not to be envied. And we may as well re-Does our constitution, then, prohibit the mark here as anywhere, that if the manufacture and sale of these articles are proper to be carried on in passage of such an act as that now being THE RUSSIAN POSSESSION IN AMERICA. the State for any purpose, it is not competent for considered? A dictum is quoted by counthe government take to take business from the sel from the opinion in Beply v. The State, people and monopolize it. The government cannot turn and become the sole dealer in medicines in the 4 Ind. Rep. 264, that "it is competent for Creator with certain unalienable rights; State. And why? Because the business was, at the legislature to declare any practise deemand before the organization of the government, and ed injurious to the public a nuisance, and States of America of its possessions in is properly at all times, a private pursuit of the peo-the north of that continent for the sum of ple, as much so as the manufacture and sale of reasoned, any property; but dicta, as counoms, tobacco, cloths, and the dealing in tea, cof reasoned, any property; but dicta, as coun-40,000,000 of silver rubles. Should the fee and rice, and the raising of potatoes: and the sel well know, are not necessarily law; are, and which government cannot deprive us cles as a beverage. It shows the judg- prohibition. He could have easily enact- should, therefore, be faithfully maintain. government was organized to protect the people in fact, generly unconsidered first impresssuch pursuits from the depredation of powerful and lawless individuals, the barons of the middle ages, whom they were too weak to resist single-handed

in fact, generly unconsidered first impressof, unless we shall first forfeit them by of unconsidered first impressof, unless we shall first forfeit them by of unconsidered first impressof, unless we shall first forfeit them by our crimes, and to secure to us the ed a physical prohibitory law by declar our crimes, and to secure to us the enjoy.

whom they were too weak to resist single-handed in giving opinwhom they were too weak to resist single-handed in fact, generly unconsidered first impressof, unless we shall first forfeit them by our crimes, and to secure to us the enjoy.

thrown out by all judges in giving opinment of these rights is the great end and in fact, generly unconsidered first impressof, unless we shall first forfeit them by our crimes, and to secure to us the enjoy.

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The shoul whom they were too weak to resist single-handed by force; and for the government to seize upon those pursuits is subversive of the very object for which it was created. "A government is guilty of an interior to the constitution are perpetrated by it was created. "A government is guilty of an interior to the constitution—that we did inhabited the western part of Europe; and to the end of the world. Man cannot, by that would, under our plurality system, the legislature in enacting laws, and infinite inhabited the western part of Europe; and to the end of the world. Man cannot, by that would, under our plurality system, according to him it was not confined to prohibitory law, be robbed of his free return a majority to the legislature, which vasion upon the facilities of industry possessed by individuals, when it appropriates to itself a particular individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution—that we use individuals, when it appropriates to itself a particular or the constitution in the constitution—that we use individuals, when it appropriates to itself a particular or the constitution in the const

And it must be manifest to every one, these rights, natural rights, are. their side, by excluding all their oppo There are undertakings of a public character such as the making of public highways, providing a uninents whose seats may be contested, - form currency, &c., that a single individual has not trine just quoted cannot be taken for law, Thus they will endeavor to exclude the therefore, prosecute; but they are not the ordinary unlimited sense, by the learned judge who ved into the right of personal security, These, certainly as the general rule, and we are uttered it. The legislature cannot declare the right of personal liberty, and the

This is all we shall here say on this point. Time and space forbid that we should elaborate all that Bible, though, perhaps the government of ganizing government, recognizes as prop-Spain once did. It connot so declare the erty. How much does this right embrace, Secondly. Could the legislature of this State practice of worshipping God according to how far does it extend? It undoubtedly enact the prohibitory liquor law under considerathe dictates of one's own conscience, though extends to pursuing the trades of manu-Few, if any, judicial decisions will be found to aid perhaps Massachusetts, in the days of Roger facturing, buying and selling, and to the us in investigating this question, as no such law, in a Williams, did do it. It cannot so declare practice of using. These acts are but country possessed of a judiciary and a constitution the practice of teaching schools, though means of acquiring and enjoying, and of Habeas Corpus, pursuant to which he it now brought before us at Chambers with the cause of his detention in custody.

His counsel moves for his discharge on the ground that said liquor act is unconstitutional and void.—

The case is submitted to us more than a submitted to us mo The case is submitted to us upon the arguments heretofore filed in the Supreme court in the case of Bebee.

We regret that this question has been thus preWe regret that the would have been confined to the inferior courts till States. Hence, it has not often, if at all, as to this government. God keep us from both."— Economy, 133.

government as despotic as any on earth. It will not be for us to enquire whether it be a good or bad law, in the abstract, unless the fact, as it; and being severally the sole judges of what their contact with it; and the offensive quality is good or bad law, in the abstract, unless the fact, as it might turn out to be, should become of some consequence in determining a doubtful point on the main question. It not unfrequently becomes the duty of courts to enforce injudicious acts of the legislature because they are constitutional, and to strike down such as, at first view, appears to be judicious, because they are in conflict with the constitution, because they are in conflict with the constitution on the Eastern continent, Magna Charta is not turn out to be, should being severally the sole judges of what their it; and being severally the sole judges of what their it; and being severally the sole judges of what their it; and the offensive quality is safety, in the countries governed, respectively recontact with it: and the offensive quality is and to keep our property or its value for own use, so they cannot be taken from us without being paid for. And by Section at the stake, all for the public good. Even in Great Britain, esteemed to have the most liberal constitution to prohibit and punish, even to the jury done to him in his person, property it may thus deal with of sufficient potency to restrain the action of Parlia- forfeiture of property, it may thus deal with or reputation, shall have remedy by due With these remarks, we proceed to the examination of the feature of the liquor act of 1855 now more especially presented to the court. We shall not spend time upon the enquiry whether, on the not spend time upon the enquiry whether the not spend time to the not spen day it came into force, there were existing unsold the supreme law, which our legislatures are sworn to thus deal with even though it first fix up- enjoyment of his acquisitions. This docthe law. We shall direct our investigation to the constitutions we have a judiciary whose duty it is, as opening, repairing, and vacating them .- the legislative power, it is said, 'they character of its operation upon the future manufac-ture, sale and consumption of intoxicating liquors. They are not the private property of the legislature from passing a legislature therefore may law impairing the obligation of a conlegislative aggression, to annul all legislative action without the pale of those instruments. This duty of the judicial department, in this country, was demonstrated by Chief Justice Marshall in Marberry vs. removed, whether they be, in fact, nuimanufacture, keep for sale, or sell" any "ale, porter, malt beer, cider," wine, &c. The second section to the maxims above th tion permits the manufacture and sale of cider and quoted, therefore, as applied to legislative power, is here without meaning.

These are public for purposes of pavice. Nor does it prove the power of the State tion, and are perhaps, completely under article of our constitution of 1816. ale, &c., by persons licensed for the purpose, so far legislature to enact the law in question, to the legislature, We lay down this proposition, then. as may be necessary to supply whatever demand show that the Supreme Court of the Uni- when the practice was to license houses as applicable to the present case: that certain persons, called county agents, may make up-ted States has decided that it cannot de-on them. These agents are authorized to sell for ents are authorized to sell for clare such a State law inoperative, for that that is, the sale of them in particular quan- ness secured by the constitution, embraother, and may procure their liquors of licensed manufacturers, but are not required to do so, and, laws as conflict with the restrictions imas matter of fact, do not, but obtain them, in most cases, from abroad. They constitute no part of the conditions cause of forfeiture wheth. cases, from abroad. They constitute no part of the posed in business on their own account, tion of United States; and if, in that conbut are appointed under the law by the County Com- stitution the States are not restrained from er it was such as rendered the retailing they may be within his reach, and that

son, 2 Peters 380, and the license cases in for while I have the right to use my own ment sumptus v officers; eulogies upon law, they may be paraphrased thus:

Son, 2 reters 300, and the ficense cases in for while I have the right to use my own ment sumptually officers; eulogies upon Be it enacted; 1st. That the trade and business 6th Howard 504; and no redress be ob- property, still I must not use it to injure the dignity of luman nature should cease, Be it enacted; 1st. That the trade and business of manufacturing whiskey, ale, porter, and beer, now and hereafter carried on in this State, shall cause there are no provisions in the United states Courts betainable in the United States Courts betainable in the United States Courts betainable in the United States cause there are no provisions in the United states courts betainable in the United States courts betainable in the United States courts betainable in the United States, shall cause there are no provisions in the United states courts betainable in the United States courts betainable in the United States, shall cause there are no provisions in the United States courts betainable in the United States, shall cause there are no provisions in the United States Courts betainable in the United States, shall cause there are no provisions in the United States Courts betainable in the United States courts betainable in the United States, shall cause there are no provisions in the United States Courts betainable in the United States courts betainable in the United States courts betainable in the United States, shall cause there are no provisions in the United States courts betainable in the United States courts betai otherwise.

2. That no person in this State shall sell any whis2. That no person in this State shall sell any whisky, beer, ale or porter, unless the sale be to an agent

State Bank, 4th Ind. Rep. 301 .- McCor enquiry, and declare the fact, or deny it, as be moral or economy, or both; then the stockings?" mic v Lafayette, 1st Ind. 48. The State v the truth may turn out to be. Many things, legislature cannot prohibit the manufac. We have thus shown, from what we States which impose the restriction, the by such proceedings, have already become ture and sale for use as a beverage of ale, will take notice of historically, that the State, as an independent sovereignty. It does not, therefore, follow that be- established nuisances at common law. By porter, beer, &c., and cannot declare use of liquors, as a beverage, and article might exclude from her borders all forcause the constitution of the United States this mode, when a party loses his trade or those manufactured, kept for sale and sold of trade and commerce, is so universal eign liquors, whether nuisances or not, does not prohibit State legislation infring- property, he does so because of his own for that purpose a nuisance, if such is that they cannot be pronounced a nui- unless, indeed, the doctrine upon which ing the natural rights of the citizen, such fault, and this according to the judgment the use to which those articles are put by sance. The world does not so regard Great Britain was defended in forcing And so, indeed, according to many emi- not be the law of the land. See numerous does protect the people in their right, the wrought. And who, as we have asked to admit universal reciprocal trade and

In accordance with this doctrine we find that the criminal code of this State has ever contained the general provision that any person who erected or maintained a nuisance should be fined, &c., and that the nuisance might be abated; 2 R, S. p. 428, 429, Sec's 8 and 9-a provision that submits it to the country, to wit, a jury under the charge of the Court, to decide the fate of the nuisance. This provision the courts have been daily enforcing agaist various noxious subjects; and if the breweries and casks of liquor are a nuisance. why have they not been prosecuted and abated also? What was the need of this special law upon the subject? We have assumed thus far upon this branch of the case, that the constitution protects private property and pursuits, and the use of by our people to a great extent as a bev- Such, however, is not the principle of the power of the legislature over the private property by way of beverage as erage. With these facts existing, the upon which the Almighty governs the property and pursuits of the citizen under well as medicine. It may be necessary, at this day, to demonstrate the fact.

The first section of the first article dethat among these are life, liberty and the pursuit of happiness. Under our constitution, then, we all have some natural ment of these rights is the great end and ancient world. Pliny, the naturalist, ing it. He did not. His purpose was It is easy to see that when the people

New York Journal of Commerce writes branch of industry, the business of exchange and that the free soil members of the House that the free soil members of the House of conducting it." Say's political that the profession well understood, and the profession well understood are profession well understood and the profession well understood and the profession well understood are profession well understood and the profession well u sive privilege of conducting it." Say's political hence are not misled by them of erroneous. tain with some degree of precision what of the grape. He mentions that the in- works vol. 1, p. 166.

Chancellor Kent, following Blackstone, lineis, one from Maine and one from Io. These, certainly as the general rule, and we are not now prepared to name an exception, the governance it may deem injurious to the right to acquire and enjoy property; not public a nuisance and punish it according- some property or one kind of property, ly. It cannot so declare the reading of the but, at least, whatsoever the society, or-

terwards fermented.'

000 gallons of liquor.

25,000,000 gallons,

tant objects of cultivation in France. -

1, p. 185, of his visit to Europe:

But the legislature, acting, as we think, within lie, and civil law, are cited by counsel on behal of the meetings and making speeches, the bearing Lean on p. 497, it is said: 'A freeman the constitution, has conferred upon the citizen the right of suing out the writ of habeas corpus from the judges severally of the Supreme Court; the right has been exercised in this case, and it is not for us, upon slight preterats, to shrink from the discharge of the duty, thus, as we cannot, indeed, but believe injudiciously imposed upon us.

Lean on p. 497, it is said: 'A freeman meetings and making speeches, the bearing of arms, publishing of newspapers, &c., however, injurious to the public the some subjects as they are admitted to be, are not authority here on this doint. They are dangerous, legislature might deem such practice to be; and why? Because the constitution for bids such declaration and punishment, and books for authority to make a bargain.' believe injudiciously imposed upon us.

Counsel on both sides concede in argument that the record presents the question of the validity of they wrote; under which they lived and been eduat least, what is alleged to be the prohibitory por- cated, and which had no written constitutions limit- terfere with it further, at all events, than great natural right of using our liberty tion of said liquor act, and that question will, therefore, without inquiry upon the point, be considered.
was that they were paternal in character—that all
legislature cannot forbid and punish the
quisition of property, and of pursuing We approach it with all the caution and solicitude its nature is calculated to inspire and that intention of careful investigation its importance detected to inspire and that the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights except what the government of that country gradients in the people of a country had no rights absolute; that the people of a country had no rights are represented in the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the people of a country had no rights and the peo mands, feeling that the consequences of the princi- ciously saw fit to confer upon them, and that it was which the constitution says he shall have nipotent parliaments, or executives, is ples we are about to assert will not be confined in the duty, like as a father towards his children, to command whatever it deemed expedient for the public mand whatever it deemed expedient for the public admit that the constitution is worthless, the in addition to the first section which we the discussion of the main questions involved, how- good, without first, in any manner, consulting that admit that the constitution is worthless, the in addition to the first section which we ever, the course of argument of counsel requires public, or recognizing in its members any individual liberties of the people a dream, and our have quoted, and aside from the fact that forth the duty this court has to perform in the premises, viz: this simply declaring the constitutionality of the law, with an assignate or unconstitutionality of the law, with an assignate or unconstitutional transfer or uncons ment of the reasons upon which the declaration is lived. Such governments as those described, things by declaring them nuisances. A secure in our persons, houses, papers and could adopt the maxim quoted by counsel, that the public nuisance is that which is noxious, of- effects from unreasonable search and seiz-

If thus appears that the law absolutely forbids the judgment of a court, &c. Young vs the the province of the judiciary to conduct tion is such, no matter whether its object dividual intoxicated or without shoes and ers. It will not be denied that but for

ny of the legislature whose enactment may ping God, &c. If this constitution public sentiment, if not in man's nature, ilization, it is the duty of all nations to

stitution furnishes the protection. If it | Counsel say the maxim that you shall law. does not in this particular, it does, as so use your own as not to injure another. And it would not follow that, because we have said, to nothing of importance, Justifies such a law by the legislature, but the State might prohibit the introduction and tea, coffee, tobacco, corn, bread, ham the maxim is misapplied; for it contem- of foreign wheat she could, therefore, and eggs may next be placed under the plates the free use, by the owner, of his prohibit the cultivation of it within the ban. The very extent to which a con- property, but with such care as not to State by her own citizens. The right of cession of the power in this case would trespass upon his neighbor; while this the State to prevent the introduction of carry its exercise show it cannot exist. prohibitory law forbids the owner to use foreign objects does not depend upon the We are confirmed in this view when we his own in any manner, as a beverage. fact of their being nuisances, or offensive consider that at the adoption of our pres- It is based on the principle that a man otherwise; but she does it, when not resent constitution, there were in the State shall not use at all for enjoyment what trained by the constitution or laws of the fifty breweries and distilleries, in which his neighbor may abuse, a doctrine that United States, in the exercise of her soy a half a million of dollars was invested. would, if enforced by law in general ereign will, five hundred men employed; which fur- practice, annihilate society, make eunochs This, however, is a topic involving nished a market annually for two mil- of all men or drive them into the cells of questions of power between the State and lion bushels of grain, and turned out the Monks, and bring the human race to Federal Governments which we do not manufactured products to the value of a an end, or continue it under the direction intend discussing in the present opinion. million of dollars, which were consumed of licensed county agents.

question of incorporating into the consti- world. He made man a free agent, and the State constitution. The restrictions tution the prohibitory principle was re- to give him opportunity to exercise his which we have examined upon the legispeatedly brought before the constitution- will, to be virtuous of vicious as he lative power of the State were inserted al convention, and uniformly rejected .- should choose, he placed evil as well as in the constitution to protect the minor Debates in the convention, vol. 2, p. p. good before him, he put the apple into ity from the oppression of the majority. 1434 and others. We are further strength. the garden of Eden, and left upon man and all from the usurpation of the legis. ened in this opinion when we notice, as the responsibility of his choice, made it lature, the members of which, under our we will as matter of general knowledge, a moral question, and left it so. He en plurality system of elections, may be rethe universality of the use of these arti- acted as to that. a moral, not a physical turned by a minority of the people. Ther

habitants of Egypt and Spain used a kind But. notwithstanding the legislature So with Ralroads, when repeated whole of ale; and says that, though it was dif- cannot prohibit, it can, by enactments sale murders are perpetrated by some of ferently named in different countries; it within constitutional limits, so regulate them. And, in Great Britain and France, was universally the same liquor. See P. the use of intexicating beverages, as to we have examples of the confiscation of Nat. Hist., lib. 14, c 22. Herodatus, prevent most of the abuses to which the property of the churches even; which, who wrote five hundred years before Pii- use may be subject. We do not say that here, the same constitution that protects ny, tells us that the Egyptians used a liq- it can all; for under our system of gov. the dealer in beer, would render safe from uor made of barley. (2, 77) Dion Cas ernment, formed in a confidence in man's invasion by the legislative power. sius alludes to a similar beverage among capacity to direct his own conduct, des | In our opinion for the reasons given the people inhabiting the shores of the igned to allow to each individual the above, the liquor act of 1855 is void .-Adriatic. Lib. 49, De Pannouis. Tac- largest liberty consis'ent with the welfare Let the prisoner be discharged. itus states that the ancient Germans, for of the whole, and to subject the private their drink, used a liquor from barley or affairs of the citizen to the least possible other grain, and fermented it so as to government interference, some excesses certain quantity of water, which is after- the language of the then illustrious Burke, American, certainly elected. when defending the revolting American In Biblical history we are told that the Colonies, something must be pardoned to vine, a plant which bears clusters of the spirit of liberty.

family had a vineyard.' Solomon, said to indicate in advance; but those which American ticket. to be the wisest man, had extensive vine- the legislature may from time to time. While the vote in this city for Secreyards which he leased to tenants. Song 8 prescribe can be brought by the citizen to tary of State shows the hards 3 674 votes -12; and Daniel in his 104th psalm, in the constitutional test before the judicia- ahead or the softs; returns for State speaking of the greatness, power of God, ry, and it will devolve upon that depart. Comptroller show the softs 2 430 shead says, verse 14 and 15, 'He causeth grass ment to decide upon their consistency of the hards, being the strength of the to grow for the cattle, and herb for the with the organic law; in fact, the ques- liquor dealers - the soft candidate being service of man, and wine that maketh tion of power, of usurpation, between on the liquor dealer's ticket. glad the heart of man, and oil to make the people and the people's representahis face shine, and bread to strengthen tives; and in doing this, so far as it may devolve upon us, we shall cheerfully lays down the following code of News It thus appear, if the inspired writer throw every doubt in favor of the latter. paper by-law. They are the best we have is entitled to credit, that man was made and of stringent regulations. Such is the to laugh as well as weep, and that these constitution of our government. Maize v. stimulating beverages were created by the The State, 4 Ind., 342 -- Thomas v. The Almighty expressly to promote his social Board of Commissioners of Clay County, Don't write all around a subject without hilarity and enjoyment. And for this 5 Ind., 557, Greencastle Township v., hitting it. 3. State facts, but don't stop purpose hath the world ever used them. Black, 5 Ind., 557. Larmer v. The Trusthey have ever given, in the language of tees of Albion, 5 Hill, 121. Dunham v. another passage of scripture, strong drink The Trustees of Rochesier 5 Cowen, 462. to him that was weary and wine to those Colter v. Doty, 5 Ohio Ren., 393.

of heavy heart. The first miracle done It is like the case of laws for the colby our Savior, that at Cana of Gallilee, lection of depts. The constitution prothe place where he dwelt in his youth, hibits the passage of an act impairing the and where he met his followers after his obligation of a contract; yet the legislaresurrection, was to supply this article to ture may regulate the remedy upon conincrease the festivities of a joyous occa- tracts, but must regulate within such lision; that he used it himself is evident, mits as not substantially to impair the Store. This is an article of Syrup sofrom the fact that he was called by his remedy, as that would indirectly impair perior to any other kind ever brought to this

Regulations within constitutional li-From De Bow's compendium of the mits, we have no doubt, if efficiently encensus of 1850, p. 182, we learn that at forced, will accomplish, as we have said, Court House on Thursday, the 22d of Nothat date there were in the United States nearly all that can reasonably be desired.

1217 distilleries and breweries, with a The legislature, we will add, may uncapital of \$8,507,574. consuming some doubtedly require the forfeiture of such can Medical Society. 18,000,000 bushels of grain and apples particular portions of liquor as shall be 1294 tons of hops, and 61,675 hogsheads kept for use in violation of proper reguof molasses, and producing some 83,000. lations, as in the case of gun powder stored in a populous city, and this for-By the National Encyclopedia, vol. 12, feiture will be adjudged by the judiciary, 924, we are informed that for the year see Cotter v. Doty Supra; but neither all ending January 5, 1850, there were im- the gun powder nor liquor in the State, ported into Great Britain and Ireland accompanied by the prohibition of the 7, 970,067 gallons of wine, 6,940,780 of further manufacture and use of the artibrandy, and 5,123,128 of rum; and that cle, can be forfeited on occount of the there were manufactured in that kingdom, improper use of a given quantity, because the entirety of neither of the arti-In the 6th vol. of the same work, p. cles is a nuisance. It is not pretended to Notice to Heirs and Others. be so as to gun powder, and we think we 'The vine is one of the most impor- have shown it is not so as to liquor.

people of France, and yet Professor Silli- gulations to prevent the introducing of sell land belonging to the estate of George man, of Yale College, on the 17th of foreign paupers, &c., for there is a palpa. Wiser deceased, his personal estate being April, 1851, then at Chalous, writes, vol. ble difference between excluding a for- insufficient to pay his debts. eign, and expelling a citizen, pauper .-In traveling more than 400 miles The constitutional convention thought it through the rural districts of France, we might have power to prohibit the ingress have seen only a quiet, industrious popu- of foreign, while it might not to compel lation, peaceable in their habits, and, as the egress of resident, negroes.

far as we had intercourse with them. So, by such regulations, and out just cause or prevocation, an personal corteous and kind in their manners. We duction of nuisances be prevented, for hereby warned from harboring or trusting her on my account, as I will pay no debts of her far as we had intercourse with them. So, by such regulations, may the intro--have observed no one who was not de- ing to declare that a given thing is a nui- contracting. cently clad, or who appeared to be ill sance, and the prohibiting of the introfed. We are told, however, that the duction of what is conceded, or shall turn

3. That no person in this state of the ment adjudged and executed. And it is sumptuary law, for that under considera- even there; nor have we seen a single in- its provisions, and not for that trang-

the constitution and laws of the United

We limit ourselves here to the question

Maryland Election.

BALTIMORE, NOV. 8. make it resemble wine. Tacitus de mon will occur, and must be tolerated, subject | The vote in this city not complete, but Gem., c 23. Ale was also the favorite only to such punishment as may be in sufficient is known to render almost cer. liquor of the Anglo Saxons and Danes .- flicted. This itself will be preventive in tain the election of the whole 'American' If the accounts given by Isodorus and its influence. The happiness enjoyed in ticket by about 500 majority. In the 34 Orosinos of the method of making ale the exercise of general reasonably regula. Congressional district, Harris, 'American' smong the ancient Britons be correct, it ted liberty by all overbalances the evil of has a large gain in Baltimore county, and is evident that it did not essentially dif. occasional individual excess. "Order" is believed to be elected over Vassant, fer from our modern brewing. They say must not be made to "reign" here as once democrat. In the 4th District, returns that the grain is steeped in water and "at Warsaw," by the annihilation of all indicate the election of H. W. Davis. made to germinate; it is then dried and freedom of action, crushing out, indeed, American, by 860 majority over May. ground; after which it is infused in a the spirit itself of liberty. With us, in democrat. In the 5th, H. W. Hoffman,

Sew York Election.

New York, Nor. S. grapes, out of which wine is pressed, so What regulations of the liquor business Returns from about half the State inabounds in Palestine that almost every would be constitutional, it is not for us dicate the almost certain success of the

NEWSPAPER By-Laws .- A cotemporary

1. Be brief. This is the age of teleto moralize. It's a drowsy subject. Let the reader do his own dreaming. 4. Eschew all prefases. Plunge at once into your subject, like a swimmer into cold

New Advertisements

Medical Society.

The Physicians of this county belongvember, at 1 o'clock, P. M., to form a county Society auxillary to the Ameri-Plymouth, Nov. 15.

Notice to Heirs and Others.

PPLICATION will be made to the Comof Indiana, at its January term, 1856, at the mon Pleas Court of Marshall county, state Court House in Plymouth, for an order to self land belonging to the estate of Daniel Andrews deceased, his personal estate being insufficient to pay his debts. R. CORBALEY, Clerk.

Nov. 15, 1855.

Application will be made to the Common Pleas Court of Marshall County, In-So, it is doubtless competent for the dians, at its January term, 1856, at the Wine is the common beverage of the legislature to establish proper police re- court house in Plymouth, for an order to

R. CORBALEY, CI'k. Nov. 15, 1855. 3518.

Notice.

ATHEREAS, my wife, Josephine Lole JOHN LOLEMAUGH. Nov. 15, 1855-

.Idministrator's Notice. JOTICE is hereby given that the under tor of the estate of David A. Bailey, late of Marshall county, deceased. Said estate is supposed to be solvent. CHARLES COOK adm'r.